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June 1, 2023

VIA CM/ECF

The Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
Southern District of New York
500 Pearl Street
New York, New York, 10007-1312

MEMORANDUM ENDORSED

Re: *O'Sullivan, et al. v. Deutsche Bank AG, et al.*, Case No. 1:17-cv-08709-LTS-GWG;
and *O'Sullivan, et al. v. Deutsche Bank AG, et al. (O'Sullivan II)*. Case No. 18-cv-
12325-LTS-GWG

Dear Judge Gorenstein:

Pursuant to this Court's January 20, 2023 Memo Endorsement [ECF No. 251], the Parties respectfully submit this joint letter to update the Court now that the Supreme Court has issued its decision in *Twitter, Inc. v. Taamneh, et. al.*, 143 S.Ct. 1206 (May 18, 2023).¹ The Supreme Court issued its opinion on May 18, 2023, which reversed the judgment of the Ninth Circuit and held that plaintiffs failed to state an aiding and abetting claim under JASTA. The Court provided significant guidance on how aiding and abetting claims should be analyzed under JASTA.

On May 8, 2023, a petition for writ of certiorari was filed with the Supreme Court in *Freeman v. HSBC Holdings PLC* (Supreme Court Case No. 22-1117).² The *Freeman* petition seeks review of the Second Circuit's January 5, 2023 decision affirming the dismissal of a JASTA conspiracy claim substantially similar to what plaintiffs allege in this case. The Parties previously advised this Court, via joint letter filed on January 19, 2023, of the Second Circuit's decision in *Freeman*. (See Dkt. No. 250.)

The questions presented in the *Freeman* petition for certiorari are:

¹ A copy of the Supreme Court opinion in *Twitter, Inc. v. Taamneh, et. al.* is attached hereto.

² The Petition for Writ of Certiorari can be found in the following link:

[https://www.supremecourt.gov/DocketPDF/22/22-1117/266358/20230508154003234 No.%20 %20Petition%20For%20A%20Writ%20Of%20Certiorari.pdf](https://www.supremecourt.gov/DocketPDF/22/22-1117/266358/20230508154003234%20No.%20%20Petition%20For%20A%20Writ%20Of%20Certiorari.pdf)

The Honorable Gabriel W. Gorenstein
Re: *O'Sullivan, et al. v. Deutsche Bank AG, et al.*,
Case Nos. 1:17-cv-08709-LTS-GWG and 18-cv-12325-LTS-GWG
June 1, 2023
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1. Whether a JASTA claim for civil conspiracy requires only that acts of international terrorism be a foreseeable consequence of the terrorism sanctions evasion conspiracy Respondents joined or, as the court below required, that (1) Respondents themselves shared a common intent to commit acts of international terrorism or (2) that the terrorists somehow directly assisted Respondents in evading the terrorism sanctions.

2. Whether JASTA civil conspiracy liability reaches a conspiracy that furthers acts of international terrorism by knowingly enabling material support for FTOs or, as the court below held, only a conspiracy that—conversely—is furthered *by* acts of international terrorism.³

Because the factual underpinnings of this case and *Freeman* are substantially similar, and the present case includes a JASTA conspiracy claim, it would be in the interest of judicial efficiency to continue the current stay until the Supreme Court denies certiorari, or grants certiorari and issues a decision on the merits.

The Parties therefore respectfully suggest that a continuation of the current stay of proceedings in the present action pending the outcome in *Freeman* will foster judicial economy and efficiency.

Accordingly, the Parties jointly respectfully request the stay in this case be continued and the Parties be given until 30 days after the Supreme Court either denies the petition in *Freeman* or issues an opinion in *Freeman* to provide the Court with another update.

Respectfully Submitted,

/s/ Christopher G. Paulos
Christopher G. Paulos

cc: Hon. Laura Taylor Swain via ECF; All Counsel via ECF.

Attachment: *Twitter, Inc. v. Taamneh, et. al.*, 143 S.Ct. 1206 (May 18, 2023).

The parties shall update the Court within 30 days after the Supreme Court either denies the petition in the *Freeman* case or issues an opinion in that case.

So Ordered.


GABRIEL W. GORENSTEIN
United States Magistrate Judge

June 5, 2023